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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,452	02/10/2004	Emad El Haje	644/37422	1691

7590

07/06/2006

Barnes & Thornburg
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Washington, DC 20006

EXAMINER

LEWIS, RALPH A

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,452

Applicant(s)

HAJE

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Rejections based on 35 U.S.C. 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4, 7, 8, 11, 12, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3 and 4, it is unclear how it can be determined whether or not a particular position aid peg meets the material with similar thermal expansion limitation. More particularly, if one uses the a peg with a first impression material having first thermal expansion properties and then uses the same peg with a second impression material having different thermal expansion properties, then it is entirely possible that the same exact peg might meet the claim limitations with the first use, but not the second, even though it is the exact same peg. The claimed positional aid depends not on structure that is specifically set forth claims, but on how some unknown user intends to use it.

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US 1,397,192).

Williams discloses an elongated peg 4 having a narrowed cross-section area 20 at one end and an enlarged portion 16 at the other end that extends at an angle. In regard to the intended use of the peg for positioning denture pieces, the Williams peg is capable of such a use. The intended use of the claimed peg fails to impose any objectively ascertainable structural distinctions from the peg disclosed by Williams. In regard to claims 3 and 4, the Williams peg is capable of use with a material having a similar thermal expansion. In regard to claims 5-8 and 14-19, note apertures 13 in the enlarged portion 16 of the elongated peg. In regard to claims 9-13, note the tapered edges at 15. Finally in regard to claims 21-23, note the adhesive 5 securing the pin 4 to the tooth 2

Examiner Comment's

Applicant's disclosure appears to be directed to a method of using pegs to repair broken dentures. It is suggested that applicant focus the claims upon the repair method, rather than on common mechanical pegs and pins.


Prior Art

Page et al (US 445,231), Morgan (US 1,122,979), Cline (US 2,356,447), Steigleman (US 2,471,501), Ramsperger (US 2,742,700), Brewer (US 3,153,282), Zahn (US 3,896,548), Drennan et al (US 4,195,047), Bogaert (US 4,270,904), Lustig (US 4,276,027), Naylor (US 4,865,546) and Brisendine (US 5,634,792) are made of record.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (571) 272-4720.

R. Lewis
June 23, 2006


Ralph A. Lewis
Primary Examiner
Au3732